

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

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CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS

Ed Heimlich

VS.

CAUSE NO.

A 10 CA 264 LY

The State of Texas

PARTIES

Petitioner / Plaintiff: Ed Heimlich, a Human Person, an Individual, a Citizen of the United States of America, a Citizen of Texas.

Address: 3635 Kentfield, Austin, TX 78759. PH: 512-779-20234

Respondent / Defendant: The STATE of Texas, a government entity, artificial creature.

Address: C/O Greg Abbott, Attorney General
209 W. 14th Street, 8th Floor, Austin, TX 78701

JURISDICTION

This petition arising "under" the Constitution of the United States as it is a petition to enforce provisions of, and to serve the very purpose for the existence of, a Constitution or, for that matter, to serve the purpose for the creation and existence of Law and Court. To cite acts of congress imposing the duty on this Court;

28 USC 1331: Federal Question.

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

28 USC 1343. Civil rights and elective franchise

(a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

- (1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;
- (2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;

PETITION

NOW COMES ED HEIMLICH, (hereinafter Heimlich), standing as a human person, as a Citizen of the United States of America, and as a Citizen of Texas, to petition for this Court to perform the duties it was created to perform.

Heimlich has title to \$660,606 in property that was taken without due process of law. Title to this property (ownership, and therefore the right to possess, manage, and control this property) was acknowledged by the Respondent / Defendant, hereinafter the State, in Final Judgment of October 3, 2005. Heimlich has legal title to this property, as evident by that attached **Exhibit A**.

This \$660,606, with post judgment interest, is property that was unlawfully taken by what the STATE of Texas has, by its duly elected Judicial Official with lawful authority to represent the STATE, acknowledged was an unlawful seizure and an unlawful imprisonment of the property of this person and citizen. This was by Final Judgment and Mandate of November 9, 1999. No other Judicial Official, or panel of Judicial Officials, or any other Actor of the State of Texas, nor of the United States pursuant to the full faith and credit clause, has jurisdiction to reverse the Final Judgment of November 1999. That Judgment is an admission by the STATE of Texas that the seizure of the person and property of this Citizen of the State of Texas, and of the United States constituted a taking of property without due process of law.

Restitution is an unalienable Right

Standing independent of any Law

Law, as a phenomenon among humans exists for a reason, a purpose. Studied from this perspective of teleology reveals law does not exist to bind Humans, as individuals, to what a social group considers right or wrong actions or inactions of the

individual. A social group, or a sovereign ruler of a society, can do so arbitrarily, capriciously, without any law or body of laws as a guide or limitation. The sovereign ruler or society, acting via a jury as representatives of the society, could simply let their conscience be their guide. History has shown this is dangerous to the safety of the individual and ultimately destructive to the sovereign or the society as a whole.

Law is a phenomenon that exists for one purpose alone. That is to bind the Sovereign, the State, and the people of a society for the protection of the unalienable, god-given, or natural if you prefer, the fundamental, substantive Rights of the individual. When Law exists for this purpose a social group is said to have become 'civil' (of law) and their society becomes a 'civilization'. There must be restitution for what the STATE of Texas has acknowledged, in Final Judgment, as a wrongful, and therefore unlawful, and an unlawful and therefore wrongful, seizure and imprisonment. If there is no restitution then Law has failed to serve the very purpose for it's existence.

In summary; there are Actors for the State of Texas, known as Attorneys, who are compensated for their time spent in litigation. They are accustomed to arguing about what law applies to a particular set of facts and then arguing about what sort of spin, otherwise known as interpretation, might be applied to that set of facts. While they are paid for this practice the public is burdened with the litigation expense and the citizen involved in the case suffers an obstruction of justice (impeding, hindering, delay in receipt of what is due). The "federal question" here is not what law applies, or how that law might be interpreted, but whether or not the very purpose for the existence of law will be honored by those who have a duty to understand the purpose for law.

The Right asserted here is an unalienable Right. **Law does not 'grant' rights. Law exists to SECURE Rights that already exist as unalienable, god-given and natural, fundamental and substantive.** No law is needed to grant, or secure, the unalienable. But to satisfy those who want to see a law that grants a right, or law that secures a right, then the Law to be cited here is the Right to Due Process of Law.

Due Process of Law

Regardless of all that the Judicial Establishment, Law Schools, and the Legal Profession, might assert the phrase "due process of law" implies; the obvious meaning, clearly intended by the common meaning of the words that are the particular parts of the phrase, as utilized in ordinary usage at the time of the enactment of our Constitution for our United States of America remains. The meaning of the words in the phrase have not changed or the change in usage has been insignificant over the course of the past 200 years. Then as now; Due Process of Law mandates a **PROCESS** that is governed by **LAW** to determine what is **DUE**, to a **HUMAN** person. The law is what governs a Court in the performance of its function of providing a Process. It is NOT what governs the human person, the individual citizen. The Law is for the protection of Heimlich, and his unalienable Rights, and the process (government and the Court) for his benefit.

The phrase 'Due Process of Law' obviously refers to Law that governs, regulates, controls, each Court Official to the extent failure of these Officers to comply would deprive a Private Citizen of unalienable, god-given natural, fundamental substantive, Rights. The attached **Exhibit B** is proof that Heimlich was deprived of the Law that governs the Process in the State of Texas, and deprived of what is clearly, unquestionably, due him.

Constitutional Mandates.

Section 10 of Article I, Article VI,

Fifth & Fourteenth Amendment

Exhibit B, and the refusal of the Justices of the Texas Supreme Court to perform their administrative duties, is a violation of the supremacy clause, Article VI, mandating that the Constitution of the United States is the supreme Law of the Land and that *the Judges of every State shall be bound thereby, anything in the Constitution or Laws of any State to the Contrary* (includes 'interpretation' of said law) *notwithstanding*.

Exhibit B, and other public Acts, Records and judicial Proceedings of the State of Texas (see Section 1, Article IV, "full faith and credit clause), are unquestionable proof of violations of Section 10, Article I, of our supreme Law of the Land. The STATE of Texas has subjected Heimlich to ex post facto Law and Law impairing the Obligations of Contracts, and made various titles attached to Offices of the State a Title of Nobility for the one entrusted with the Office.

The Fifth and Fourteenth Amendments to our Constitution for our United States of America is clear and unambiguous.

no person shall be deprived of life, liberty, or property, without due process of law

The UNITED STATES, by and through this Court, has a duty to insure that this statement remains true. Failure to do so is a violation of the public trust and a violation of the duty to the Constitution the Judicial Official, and other Officers of this Court, have taken an oath to preserve, protect, and defend, as well as a failure to provide the service for which the people of this Nation have paid the Court Officials to provide.

Heimlich's Rights, Privileges, and Immunities as a Human person, and a Citizen of both the United States and of the State of Texas, are not limited to the Fifth and

Fourteenth Amendment, nor are they waived or forfeited by not citing additional violations of law by the Respondent Defendant, or its Actors and Agents, for which the same and additional restitution are mandated by law. Heimlich reserves the right to supplement his claim.

REDRESS MANDATED

The redress for the grievance cited, hereinafter referred to as petition for restitution of property unlawfully taken or, in other words, taken by violating the law that governs the legal process / government process, established by our Constitution and laws of the United States and of this State, is mandated by the Constitution and Laws of the United States and of this State. Heimlich respectfully request the Federal Judge to whom this case is assigned order the STATE of Texas to provide Heimlich with possession, management, and control of his property in the monetary sum of \$660,606 plus post judgment interest as represented by the Final Judgment attached hereto as Exhibit A.

Heimlich respectfully request the Judge of this Court Order the STATE of Texas to do so under threat that failure to comply with the order will result in an order to levy upon the funds the STATE of Texas receives from the UNITED STATES in exchange for compliance with the Constitution and Laws of the United States of America. Additionally, should the STATE of Texas refuse to honor the Constitution and Laws of the United States and of this State with immediate compliance with the order of this Court, the STATE of Texas, and its Actors and Agents responsible, will be held accountable for Obstruction of Justice pursuant to 42 USC 1985 as well as other Laws binding upon the STATE of Texas, and upon those who act in the name of the STATE of Texas including the potential sanction imposed by Section 3 of the Fourteenth

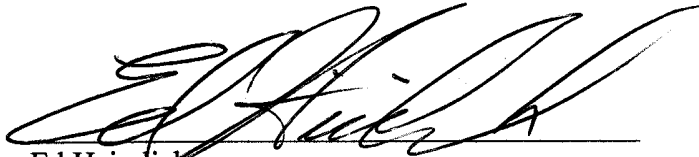
Amendment to the Constitution of the United States of America as the supreme Law of the Land.

WHEREFORE, PREMISIS CONSIDERED, this Human Person, a private Citizen of Texas and of the United States, respectfully request the Judge of this Federal Court to whom this Petition is assigned end the Obstruction of Justice and support not only our Constitution for our United States, but the very purpose for the creation of a Constitution and Laws made in pursuance thereof (the supreme Law of the Land). Petitioner requests an order to the STATE of Texas for immediate payment to Ed Heimlich the sum of \$660,606 plus interest at the rate of 6.5% per annum from the date of October 3, 2005. Stipulate that If Heimlich has not received his property within 10 days of that order the Judge of this Federal Court issue a warrant for the seizure of the property by deduction from Federal Funds dispersed to the STATE of Texas from the UNITED STATES.

Respectfully submitted this, the 19th day of April, 2010.

Certificate of Service

I hereby certify that this Petition has been served upon the Respondent / Defendant by Certified Mail by entrusting a true and correct copy with the United States Postal Service on this, the 16th day of April, 2010



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